

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS**

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**CRIMINAL NO. 2:11-CR-11-ALL  
(Judge Bailey)**

**SHERRY LOU SMITH,  
ANTHONY LAMBERT, and  
CASSANDRA SMITH,**

Defendants.

**ORDER GRANTING MOTION TO DESIGNATE CASE AS COMPLEX**

On this day, the above-styled criminal action came before this Court upon consideration of defendant Sherry Lou Smith's Motion to Designate Case as Complex [Doc. 22], filed pursuant to this Court's Local Rules of Criminal Procedure ("LR Cr P") 16.01(h). In support of the Motion, the defendant states that the voluminous discovery and need for intensive factual investigation favor designation of this matter as complex. In her request, the defendant seeks to amend the Initial Scheduling Order; specifically, defendant Smith requests an additional ninety (90) day extension within which to provide to this Court a status report. The co-defendants and the Government agree with the above request.

LR Cr P 16.01(h)(1) permits this Court "[a]t any time after arraignment, . . . upon motion by any party, and for good cause shown, [to] designate a case as complex." The defendants were arraigned on April 26, 2011. Following the entry of "not guilty" pleas by all defendants, the Government disclosed initial discovery materials, which comprised of over 1,300 pages of documentation and multiple audio tapes of police interviews.

Additionally, the defendants anticipate substantial supplemental discovery to follow. The fourteen (14) count Indictment alleges various counts related to the shooting death of a Deputy United States Marshal and the wounding of two others.

Upon careful consideration of the above, this Court is of the opinion that the defendant has established the requisite “good cause shown” for this Court to designate this criminal action as complex. Accordingly, the Motion to Designate Case as Complex **[Doc. 22]** is hereby **GRANTED**. As such, this Court’s Local Rules of Criminal Procedure 16.01(h) dictate the following course of action:

(2) In all cases designated as complex, the parties shall, not later than seven (7) days following such designation, confer to develop a Proposed Complex Case Schedule addressing the following:

- (i) the scope, timing, and method of the disclosures required by federal statute, rule, or the United States Constitution, and any additional disclosures that will be made by the Government;
- (ii) whether the disclosures should be conducted in phases, and the timing of such disclosures;
- (iii) discovery issues and other matters about which the parties agree or disagree, and the anticipated need, if any, for motion practice to resolve discovery disputes;
- (iv) proposed dates for the filing of pretrial motions; and
- (v) stipulations with regard to the exclusion of time for speedy trial purposes under 18 U.S.C. § 3161.

(3) The parties shall file the Proposed Complex Case Schedule no later than seven (7) days after conferring under this section.

(4) As soon as practicable after the filing of the Proposed Complex Case Schedule, the Court shall enter an Order fixing the schedule for discovery, pretrial motions, and trial, and determining exclusions of time under 18

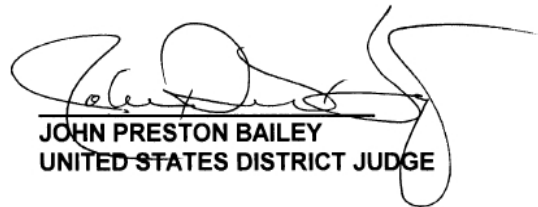
U.S.C. § 3161, or shall conduct a pretrial conference to address unresolved scheduling and discovery matters.

As a final matter, this Court hereby **VACATES** the Initial Scheduling Order **[Doc. 21]** pending submission of the parties' Proposed Complex Case Schedule, which the parties shall file within seven (7) days after entry of this Order.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

**DATED:** May 5, 2011.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE